

EXHIBIT A

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
VIDEOTAPED DEPOSITION OF ANDREW VICKERS, R.N. on 02/18/2016

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3
4

5 IN RE: NEW ENGLAND
6 COMPOUNDING PHARMACY, INC. MDL No. 2419
7 PRODUCTS LIABILITY LITIGATION Master Docket
8 1:13-md-02419-RWZ
9

10 - - - - -
11

12 VIDEOTAPED DEPOSITION OF ANDREW VICKERS, R.N.
13

14 Thursday, February 18, 2016
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21

22 Reported by: Lori J. Goodin, RPR, CLR, CRR,
23 Realtime Systems Administrator
24

25 Assignment No. 26240



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3 The deposition of ANDREW VICKERS, R.N.,
4 was convened on Thursday, February 18, 2016,
5 commencing at 10:39 a.m., at the offices of
6

7 PESSIN KATZ LAW
8 Suite 400
9 901 Dulaney Valley Road
10 Towson, Maryland 21204
11
12

13 before Lori J. Goodin, Registered Professional
14 Reporter, Certified LiveNote Reporter, Certified
15 Realtime Reporter, Realtime Systems Administrator,
16 and Notary Public in and for the State of
17 Maryland.
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PROCEEDINGS

THE VIDEOGRAPHER: We are now on record. This is Tape Number 1 to the videotaped deposition of Andrew Vickers, taken in the matter of In Re: Compounding Pharmacy, Inc. products liability litigation.

This deposition is being held at Pessin Katz Law, located at 901 Dulaney Road, Towson, Maryland 21204, on Thursday, February 18, 2016, at 10:39 a.m.

My name is Meeko Goodhill and I am the videographer. The court reporter today is Lori Goodin.

Counsel please introduce yourselves for the record.

MS. KASPUTYS: I am Patricia Kasputys, and I am an attorney with the Law Offices of Peter Angelos and I am representing seven of the plaintiffs who have filed lawsuits which are pending in the multi-district litigation in federal court in Boston, Massachusetts.

MS. HOUSTON: I am Sharon Houston. I am an attorney with the Law Offices of Peter Angelos. I'm representing multiple



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1 plaintiffs in the MDL.

2 MR. COREN: Michael Coren. I am an
3 attorney with the firm of Cohen Placitella &
4 Roth in Philadelphia and Red Bank, New Jersey.

5 I represent Brenda Rozek and various
6 other plaintiffs.

7 MS. STEINER: Catherine Steiner on
8 behalf of Ritu Bhambhani, M.D., Ritu
9 Bhambhani, M.D., LLC, and Box Hill Surgery
10 Center, LLC.

11 MR. KIRBY: And Gregory Kirby
12 representing the same defendants.

13 THE VIDEOGRAPHER: Anybody on the
14 phone want to introduce themselves for the
15 record, please?

16 MR. ROTH: I am Harry Roth. I am on
17 the phone, but I am going to be on mute.

18 ANDREW VICKERS, R.N.,
19 a witness called for examination, having been
20 first duly sworn, was examined and testified as
21 follows:

22 EXAMINATION

23 BY MS. KASPUTYS:

24 Q. Good mornings again Mr. Vickers. As
25 I said I am Patty Kasputys. I am going to be

1 Q. And if you found that there was a
2 shortage, what would you do? Would you call?

3 A. I would give them a call and ask if
4 they had any extra that we could borrow, either
5 to replace or purchase.

6 Q. Who was it that you called?

7 A. I would call Barbara.

8 Q. Barbara Wagner?

9 A. Wagner, yes.

10 Q. Did you recall how many times you
11 did that during your employment at Box Hill
12 Surgery Center between 2008 and September 26th,
13 of 2012.

14 MS. STEINER: Well let me just
15 object. He has indicated that he wasn't
16 there in 2008 at all.

17 MS. KASPUTYS: You are right.

18 BY MS. KASPUTYS:

19 Q. 2009.

20 A. I say more than one less than ten.
21 I really couldn't give you --

22 Q. Did you do it in 2010?

23 A. I can't recall.

24 Q. Do you recall whether you did it in
25 2011?

1 A. Like I said, I can't recall the
2 dates or the amount of times.

3 I know in, I can't remember, if it
4 was after the recall or before, it would have
5 been within a month of that recall that we did
6 obtain some from Harford County.

7 Q. And, after you placed the call, how
8 was it that the drug was, the steroid was
9 procured?

10 A. I would pick it up.

11 Q. Did you personally pick it up?

12 A. Yes.

13 Q. You said a moment ago, I believe,
14 that you either borrowed it or you purchased it?

15 A. Right.

16 Q. On that occasion did you borrow it
17 or purchase it?

18 A. I can't recall. If it was
19 purchased, she would have invoiced Dr. Bhambhani.

20 Q. Uh-huh.

21 A. If it was borrowed, we would have
22 replaced it.

23 Q. Would there be an invoice that
24 tracks that?

25 MS. STEINER: Objection as to



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1 Q. Thank you. This document is going
2 to be marked 1147.

3 (Exhibit Number 1147
4 marked for identification.)

5 BY MR. COREN:

6 Q. It is a prescription order form it
7 bears the date of April 5, '11. On the record
8 the names of the patients will be redacted out,
9 okay?

10 First of all, do you recognize any
11 of the handwriting on that form?

12 A. Yes.

13 Q. Whose handwriting is that?

14 A. My handwriting and Dr. Bhambhani.

15 Q. And Dr. Bhambhani's handwriting is
16 the signature at the bottom?

17 A. Correct.

18 Q. Does her handwriting appear anywhere
19 else on the form?

20 A. The DEA number.

21 Q. Okay. Now, there are names, patient
22 names. Are those the names that earlier today
23 you discussed that you would pull from random in
24 order to fill out the form?

25 A. Well, not at random, they would be



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1 on a previous schedule.

2 Q. Okay. So, everybody whose name
3 appears on this list already had their steroid
4 shot, correct?

5 A. Unless they were canceled
6 previously, yes.

7 Q. Okay. So, there may be even some
8 patients names who were listed who never ever had
9 the shot at all?

10 MS. STEINER: Objection as to form
11 and foundation.

12 THE WITNESS: It is possible.

13 BY MR. COREN:

14 Q. Okay. Do you think it was likely or
15 do you think it is more likely all of those names
16 are somebody who previously had a steroid shot?

17 A. It is possible.

18 Q. Okay. Now, there is an indication
19 for a patient next to, on the last column that
20 has the Number 5, correct?

21 A. Yes.

22 Q. And is that indicating the number of
23 vials?

24 A. Yes.

25 Q. Is it fair to say that no one



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1 patient in your experience ever had five vials of
2 NECC MPA administered to them?

3 A. I couldn't say. It would depend on
4 their history.

5 Q. Are aware of any?

6 A. Not to the best of my knowledge.

7 Q. Okay. You can't, are you able to
8 say to reasonable certainty that every one of
9 those patients whose names are listed received
10 five vials of NECC MPA?

11 MS. STEINER: Objection as to form
12 and foundation.

13 THE WITNESS: I really couldn't say
14 because I don't know their history.

15 BY MR. COREN:

16 Q. Why did you put five vials next to
17 each patient's name on their order?

18 A. NECC said we could order five vials
19 per patient to obtain the quantity that we needed
20 for future injections.

21 Q. Who at NECC told you that?

22 MS. STEINER: Objection as to
23 foundation.

24 THE WITNESS: Nobody from NECC told
25 me. I was instructed by Kim Brockmeyer that



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1 patient's names, five vials per patient.

2 And you did that, correct? That was
3 the process you followed?

4 A. Yes.

5 Q. Okay. And then, the drugs came in.
6 How were they delivered?

7 A. UPS or FedEx.

8 Q. So, usually they came a few days
9 after you placed the fax order?

10 A. A few days to a week after.

11 Q. Now, the, in the UPS or the FedEx
12 package, who opened it when it was received?

13 A. Most of the time it would be me.

14 Q. Okay. And when you opened the box,
15 what did you find in it?

16 A. Wrapped in bubble wrap were silver
17 sealed packages with five vials per package.

18 Q. Okay. Was there anything else in
19 the envelope or the box?

20 A. On the pouch would have the name of
21 the medication and the patient's name.

22 Q. Okay. And that corresponded to, say
23 there were on your list ten names. There would
24 be ten foil packages?

25 A. Correct.



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1 Q. Okay. And each foil package would
2 have a patient's name on it, correct?

3 A. Correct.

4 Q. Okay. Did you understand that what
5 had come in was a prescription for that patient?

6 MS. STEINER: Objection as to form.

7 BY MR. COREN:

8 Q. Of five vials?

9 MS. STEINER: Objection as to form
10 and foundation.

11 THE WITNESS: No.

12 BY MR. COREN:

13 Q. Did you ever come to learn that?

14 A. No.

15 Q. Okay. Now, if that was a
16 description for the patient's name who appeared
17 on the pouch that contained five vials, would you
18 agree with me that the people that were being
19 administered the steroid from those vials was
20 getting something that was prescribed for a
21 different patient?

22 MS. STEINER: Objection as to form
23 and foundation. Calls for a legal
24 conclusion.

25 You could answer as a fact witness,



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